and to correct or revise plats. Vacation, if objected to, must be shown to be necessary for the "health, welfare, comfort and safety of the public", the act reads. Then on to that crucial portion of the plat act upon which Mr. Justice O'Hara plants his opinion.

> "If the petition before the court involves the vacation of any alley, street or other public place then being used by any public utility for public utility purposes, *it is hereby deemed necessary for the health, welfare, comfort and safety of the public to reserve an easement therein for the use of public utilities,* and it is hereby confirmed that the court has the authority to reserve such an easement. The foregoing provision shall not be deemed to limit the authority of the court to reserve easements for the use of the public utilities in other cases required or consistent with the health, welfare, comfort or safety of the public, including a situation where a public utility is not then making an actual use of the area to be vacated." (CLS 1961, §560.62 [Stat. Ann. 1963 Cum. Supp. §26.492]). (Emphasis supplied.)

From reviewing pertinent parts of the two statutes, it would appear that at least insofar as vacation of plats, streets and alleys is concerned, the statutes relate to the same general subject. It might be said that by the RBA act, we are directed to several conditions under which vacations should be accomplished, whereas the plat act gives the tool, or shows how it may be accomplished. We conclude, therefore, that the statutes are *in pari materia* and should be so construed.

When construed together, we hold that the statutes do not require, in circumstances such as these, a municipality to reserve "easements" in streets and alleys sought to be vacated. It is true, as Mr. Justice O'Hara suggests, the

plat act provisions seem to require reservations of "easements", in place, for utility purposes where previously so used. However, strict construction of a statute should not be followed where such construction would defeat the main purpose of other statutes relating to the same subject. Rathbun v. State of Michigan, *supra*.

The Rathbun Case involved, *inter alia,* an interpretation of supposed conflicting provisions of the general property tax act (Section 131 of Act No. 206, PA 1893, as amended)[1] and the public domain act (Act No. 280, PA 1909 as amended).[2] Plaintiff's grantor had claimed that the reservation of mineral rights to the State in a homestead deed was contrary to the general property tax law which provided that "Such deed shall convey an absolute title to the lands sold." Holding the statutes to be *in pari materia,* this Court ruled that the later enacted public domain act did not amend or repeal the general property tax law. The public domain act was said to indicate a growth of general public policy with regard to the conservation of resources and, therefore, that the State acted properly in severing "absolute fee in the surface rights from the absolute fee in the mineral rights." In the law related to statutory construction the case is cited, and properly so, for at least these two general propositions: (1) statutes will be construed if possible so that other statutes relating to the same subject may be given effect; and (2) strict construction of a statute should not be followed where it would defeat the main purpose of other statutes relative to the same subject. Of similar holding is Auditor General v. Stevens, 291 Mich 658, wherein certain tax moratorium

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[1] See CL 1948, §211.131 (Stat. Ann. 1960 Rev. §7.188)

[2] See CL 1948, §322.202 *et seq.* (Stat. Ann 1958 Rev. §13.431 *et seq.*)

statutes were harmoniously construed *in pari materia* with statutes comprising parts of the general tax law. To hold that in every single instance the plat act requires in vacation proceedings a reservation of "easements", in place, for public utilities is to place an unduly strict interpretation upon plat act provisions and also is to ignore basic differences between comprehensive redevelopment planning, on the one hand, and isolated instances of street and alley vacation, on the other. The former involves fundamental redesign of an entire area, including utility service facilities. In such case many utility facilities are, as here, retained. Other facilities may need to be redesigned to serve new customers with new service demands in the redeveloped area; while yet other facilities may have to be re-routed, if service is to be provided new customers in new locations at convenient outlets. We may say, therefore, that for comprehensive redevelopment planning under the RBA act, provisions are made for both the creation and the retention, where necessary, of places in the public right of way for utility facilities. On the other hand, where no broad area redevelopment is pursued under the RBA act, or similar statutes, and, hence, there is no requirement, statutory or otherwise, for comprehensive facility redesign or re-routing, it seems that in an isolated instance of street or alley vacation some provision may need to be made for retention of space in the vacated public right of way for utility facilities, to insure continuity of service. This is what the reservation of "easements" in the plat act is intended to provide. We hold that under present circumstances, "easements" were not required to be reserved. If such were not required, then the city, under its stipulation with the utilities, is not required to pay relocation costs.

One thing more needs to be said. Justice O'Hara writes that reservation of an "easement" is required because the plat act says so, and if "unreserved, the extinguishment thereof without compensation would constitute an unauthorized taking of private property." Holding, as we do, contrary to Justice O'Hara's premise that the plat act requires, under the circumstances, reservation of "easements", the conclusion follows that if no reservation is required then the refusal to reserve cannot be considered extinguishment of the easement. Refusal to grant a nonexistent right does not constitute an extinguishment.

It should be added that this decision should not be construed as ordaining payment of relocation costs in lieu of "easements", as such may be required by language of the plat act. This question was not presented. We take note simply of the fact that the plat act contains no express provision for payment in lieu of reservation.

We are in substantial agreement with those portions of Mr. Justice O'Hara's opinion wherein he discusses propositions I, II, and III. It is his discussion of the fourth point or proposition with which we disagree, especially as he interprets and applies aforementioned vacation provisions of the plat act.

We vote for reversal. No costs, a public question being involved.

(Chief Justice Kavanagh and Justices Kelly and Souris concurred with Justice Smith.)